Community Code on Visas: harmonised application

2011/0223(COD) - 30/08/2011 - Legislative proposal

PURPOSE : to amend Regulation (EC) No 810/2009 of 13 July 2009 establishing a Community Code on Visas (Visa Code) with a view to clarifying the rules on transit through international areas of airports to ensure legal certainty and transparency.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: Regulation (EC) No 810/2009 became applicable on 5 April 2010. In accordance with Article 51 of the Visa Code operational instructions on the practical application of the provisions of the Regulation have been drawn up by the Commission Decision establishing the Handbook for the processing of visa applications and the modification of issued visas adopted on 19 March 2010.

During the preparation of the Handbook, it has been observed that the formulation of Article 3 (5) (b) and (c) relating to the exemption from airport transit visa (ATV) requirements was unclear. As the Handbook cannot create legally binding obligations on Member States, it is necessary to amend the Visa Code to establish legal certainty and a harmonised application of the rules. Such clarification is of practical importance for individual travellers and for airline companies.

IMPACT ASSESSMENT: the two aspects covered by the proposal have been discussed in the Visa Committee and in the Visa Working Party and Member States have supported the Commission taking the initiative for a limited amendment of the Visa Code.

LEGAL BASIS: Article 77 (2) (a) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: according to Regulation (EC) No 810/2009, third country nationals subject to the airport transit visa requirement who hold a valid visa issued by a Member State, Canada, Japan or the United States of America or who hold a valid residence permit issued by a Member State, Andorra, Canada, Japan, San Marino or the United States of America are exempted from the ATV requirement.

This proposal is restricted to a technical amendment involving the clarification of the existing text with a view to specifying that:

- third country nationals holding a valid visa or residence permit issued by a Member State not applying the common visa policy in full are to be covered by the ATV exemption;
- the ATV exemption covers the persons holding a valid visa when they travel to the third country that issued the visa, to any other third country, and when having used the visa they return from the third country that issued the visa.

BUDGETARY IMPACT: the proposal has no impact of the Union’s budget